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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/609,101

06/30/2003

Michael T. Konczal

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09/22/2004

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EXAMINER

GOINS, DAVETTA WOODS

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,101

Applicant(s)

KONCZAL, MICHAEL T.

Examiner

Davetta W. Goins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/30/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 8-12, 14, 16, 17, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Baker (US Pat. 6,348,859 B1).

In reference to claims 1, 16, 17, 19, Baker discloses a) the claimed light emitting means disposed on a rearward portion of the helmet, which is met by visual display 80 attached to helmet 220 (col. 6, lines 33-45, Figures 6 and 8), b) the claimed switching means responsive to deceleration, which is met by accelerometer 196 (col. 6, lines 33-45), and c) the claimed power source coupled with the light emitting means and the switching means, which is met by battery 160 (Figure 8).

In reference to claims 2, 3, Baker discloses the claimed switching means further comprising a circuit adapted for sensing deceleration, which is met by an accelerometer 196 (col. 6, lines 33-45 and Figure 8).

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In reference to claim 5, Baker discloses the claimed battery, which is met by battery 160 (col. 6, lines 33-45).

In reference to claim 8, Baker discloses the claimed plurality of light emitting, which is met by a plurality of LEDs 88 (col. 5, lines 24-40, Figure 5).

In reference to claims 9, 14, Baker discloses a) the claimed sensor portion adapted for sensing deceleration, which is met by accelerometer 196 (col. 6, lines 33-45), , b) the claimed light emitter portion, which is met by visual display 80 attached to helmet 220 (col. 6, lines 33-45, Figures 6 and 8), and c) the claimed logic portion operably coupling the sensor portion and the light emitting portion, which is met by control circuit, which consists of a microcontroller 72 (col. 5, lines 7-13).

In reference to claims 10-12, Baker discloses the claimed circuit is affixed to headwear, which may be a motorcycle helmet or bicycle helmet, which is met by the assembly 10 attached to helmet 220, which may be for a motorcycle or bicycle (col. 3, lines 5-10; col. 6, lines 33-45, and Figure 5).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 13, 15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker.

In reference to claims 4, 15, 20, although Baker does not specifically disclose the claimed primary axis accelerometer and at least one reference axis accelerometer, he does disclose a tilt-activated switch 194 designed to close when the helmet 220 is tilted in a left or right direction as while making a left or right turn. An additional tilt switch 194 can also be added to close when a forward or rearward force is applied to the helmet 220 or when making a sudden stop. An accelerometer 196 can be utilized to operate regardless of the tilt position of the helmet 220 (col. 6, lines 33-45). Since Baker discloses two different tilt switches that may be used to detect force applied to the helmet in two directions (axis) as well as an accelerometer to operate in any tilt position, it would have been obvious to one of ordinary skill in the art at the time of the invention to use two separate accelerometers for a primary and reference axis to ensure that the helmet will provide a visual indication whenever any type of force is detected to warn nearby motorists and pedestrians.

In reference to claim 13, although Baker does not specifically disclose the claimed sensor portion being responsive to deceleration exceeding .005 g, he does disclose an accelerometer 196 used to detect deceleration (col. 6, lines 33-45). Since Baker discloses an accelerometer used to detect the force applied to a helmet, it would have been obvious to one of ordinary skill in the art at the

time of the invention to incorporate the teaching of providing a threshold level for determining deceleration exceeding any amount to provide visual indication only for specific speeds.

5. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Kim (US Pat. 6,686,837 B2).

In reference to claims 6, 18, although Baker does not disclose the claimed power source comprising a photovoltaic cell, he does disclose a battery 160 comprised of a rechargeable battery 162 (col. 5, lines 64-67; col. 6, lines 1-4). Kim discloses a helmet 14 including a brake light module 12; the module includes a battery 20 and a solar cell 44 to charge the battery 20 (col. 3, lines 49-63). Since Baker discloses a means for recharging the battery for the helmet, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of using a photovoltaic cell, such as the solar panel disclosed by Kim, with the system of Baker, to ensure that power will continuously be provided to operate the visual display on the helmet.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gouda (US Pat. 4,891,736).

In reference to claim 7, although Baker does not disclose the claimed light transmitting means extending through the helmet from the light emitting means to a position at the periphery of a forward portion of the helmet, he does disclose a visual display 80 attached to the back of the

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helmet projecting outward from the rear surface 100 (col. 5, lines 7-24 and Figure 5). Gouda discloses a helmet including a visual display that includes light emitting means that covers majority of the helmet (Figure 1). Since both Baker and ** disclose visual displays on the helmet to be seen by nearby motorist and/or pedestrians, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of positioning the light emitting means at the periphery of a forward portion of the helmet, to ensure that motorists and/or pedestrians located at the side of the rider will be able to view the display.

7. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure as follows. Foglietti (US Pat. 4,956,752), Eikenberry et al. (US Pat. 5,353,008), 5,621,922), and Henry (US Pat. 6,529,126 b1), which disclose safety helmet systems.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davetta W. Goins whose telephone number is 571-272-2957. The examiner can normally be reached on Mon-Fri with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DAVETTA W. GOINS
PRIMARY EXAMINER



D.W.G.

September 17, 2004

Davetta W. Goins
Primary Examiner
Art Unit 2632